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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,037	01/09/2004	Stephen J. Brown	04-0100 / 7553.00063	7886
66683      7590      12/10/2008 HEALTH HERO NETWORK, INC. 2400 GENG ROAD, SUITE 200 PALO ALTO, CA 94303				
EXAMINER				
PHONGSVIRAJATI, POONSIN				
ART UNIT		PAPER NUMBER		
3686				
MAIL DATE		DELIVERY MODE		
12/10/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/755,037

**Applicant(s)**

BROWN, STEPHEN J.

**Examiner**

SIND PHONGSVIRAJATI

**Art Unit**

3686

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/11/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-48 and 50-53 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-48 and 50-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

### *Status of Claims*

1. In response to communications filed on 09/11/2008. Claims 32, 33, 35, 37, 41, 42, 48, 52 and 53 have been amended. Claim 49 has been canceled. Claims 32-48 and 50-53 are now pending.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 32-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tacklind (US 5,704,366) in view of Dormond et al. (US 4,839,822).

3. As to **Claim 32**, Tacklind teaches a system for displaying personal health information (Tacklind, Abstract) comprising:

- a server coupled to one or more databases containing (i) health information, (ii) other information from a health provider and (iii) other inputs relevant to an individual (Tacklind, Fig. 1, col. 4 lines 14-24);
- a software program configured to process data from the databases to generate a personalized health model by combining data from the databases

with a generalized model (Tacklind, col. 9 lines 1-7, col. 10 lines 18-25, col. 5 line 64 to col. 6 line 15); and

But Tacklind does not specifically disclose a display coupled (i) to a multimedia processor and (ii) to the server over a network, wherein said display (i) presents personalized health information in the form of a body image corresponding to a plurality of body parts of a person and (ii) highlights one of the body parts in response to the personalized health model. Dormond does teach of a processor and a server over a network, wherein a body image corresponding to a plurality of body parts of a person and (ii) highlights one of the body parts in response to the personalized health model (Dormond, col. 5 lines 26-34, and Fig. 2-5). It would have been obvious to one of ordinary skill in the art at the time of the invention to include at least one icon related to a plurality of body parts of a person in the health information model of said person within the disclosure of Tacklind for the motivation of preparing various configurations of the Welby character, designed by the physician, for a patient (Tackland, col. 9 lines 1-7).

4. As to **Claim 33**, Tacklind teaches the system of claim 32, wherein the display is selected from the group consisting of a personal computer, an internet television, a television and multimedia processor (Tacklind, Fig. 1, col. 5 lines 47-63).

5. As to **Claim 34**, Tacklind teaches the system of claim 32, wherein the databases are selected from the group consisting of electronic medical records, prescribed treatments, standards of care, formularies, personal profile, laboratory data, and monitoring data (Tacklind, Fig. 1- Fig. 4D-2).

6. As to **Claim 35**, Tacklind teaches the system of claim 32, wherein said personalized health model comprises a personalized encoded file (Tacklind, col. 7 lines 23-33). But, Tacklind does not specifically disclose a HTML encoded file. However, it is well known to those of ordinary skill in the art, that, at the time of the invention, internet pages are commonly loaded in HTML and to provide a HTML encoded file would have been obvious for the purpose of compatibility, and official notice to that effect is hereby taken.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Tacklind so as use an HTML encoded file, since HTML is a common format used in internet browsers.

7. As to **Claim 36**, Tacklind teaches the system of claim 32, wherein the database includes monitoring data collected from the individual through an interaction with the display (Tacklind, col. 5 lines 31-46).

8. As to **Claim 37**, Tacklind teaches the system of claim 36, wherein the monitoring data includes: data downloaded from a device meter; data transmitted to a service provider; and current and historical device data levels (Tacklind, Abstract).

9. As to **Claim 38**, Tacklind teaches the system of claim 37, wherein the device comprises a blood glucose meter (Tacklind, col. 5 lines 19-30).

10. As to **Claim 39**, Tacklind teaches the system of claim 37, wherein there is one or more devices for the measurement of one or more of the following: blood glucose, respiratory flow, conditions of feet, conditions of the heart, compliance with treatment,

respiratory flow, blood pressure, cholesterol, weight, t-cell count, viral count, frequency of episodes of a mental health condition (Tacklind, col. 5 lines 19-46).

11. As to **Claim 40**, Tacklind teaches the system of claim 32, wherein the monitoring data comprises a logbook with one or more of the following data elements selected from the group consisting of medication data, symptoms, events, treatment plans, lab tests, diets, appointment schedule, checkup schedule (Tacklind, col. 4 lines 25-32).

12. As to **Claim 41**, Tacklind teaches the system of claim 35, further comprising: a module for (i) sending and receiving messages to and from a health provider through the multimedia processor (Tacklind, col. 6 lines 6-26) and (ii) displaying messages on the display together as part of the encoded file of personal health information (Tacklind, col. 6 lines 6-26). But, Tacklind does not specifically disclose a HTML encoded file. However, it is well known to those of ordinary skill in the art, that, at the time of the invention, internet pages are commonly loaded in HTML and to provide a HTML encoded file would have been obvious for the purpose of compatibility.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Tacklind so as use an HTML encoded file, since HTML is a common format used in internet browsers.

13. As to **Claim 42**, Tacklind teaches the system of claim 41, wherein the messaging function includes downloading treatment directions form a health care provider (Tacklind, For example see Fig. 4D-2).

14. As to **Claim 43**, Tacklind teaches the system of claim 41, wherein the messaging function includes an instruction to transfer logbook contents to a service provider (Tacklind, col. 4 lines 29-32).

15. As to **Claim 44**, Tacklind teaches the system of claim 43, wherein the logbook contents comprise of one or more of the following elements: medication data, symptoms, events, treatment plans, lab tests, diets, an appointment schedule, and a checkup schedule (Tacklind, col. 4 lines 25-32).

16. As to **Claim 45**, Tacklind teaches the system of claim 41, wherein the messaging function includes an email to a health provider (Tacklind, col. 4 lines 36-40, Tacklind discloses a communication system being used to report to a health provider. The Examiner takes the position that email can be used in the communication system, since email is a communication system in itself).

17. As to **Claim 46**, Tacklind teaches the system of claim 41, wherein the messaging function includes a compliance alert notifying the patient of a difference between actual treatment and recommended treatment parameters (Tacklind, Fig. 4D-2).

18. As to **Claim 47**, Tacklind teaches the system of claim 41, wherein the messaging function reminds the individual to seek medical attention for a specific indication (Tacklind, For example see Fig. 4D-2).

19. As to **Claim 48**, Tacklind teaches the system of claim 35, wherein the personalized encoded file includes educational information directed to the individual based on the condition of an individual (Tacklind, For example see Fig. 4D-2, The

Examiner takes the position that providing instructions for using the instructed medication and the cause and effect of using the said medication is sufficient for providing educational information directed to the individual based on the condition of an individual), but Tacklind does not specifically disclose a personalized HTML encoded file. However, it is well known to those of ordinary skill in the art, that, at the time of the invention, internet pages are commonly loaded in HTML and to provide a HTML encoded file would have been obvious for the purpose of compatibility.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Tacklind so as use an HTML encoded file, since HTML is a common format used in internet browsers.

20. As to **Claim 50**, Tacklind teaches the system of claim 32, wherein the body image has indicators selected from the group consisting of a flashing icon, a change in color, and a change in condition, to alert the individual to an aspect of care that needs attention (Tacklind, col. 7 lines 34-51).

21. As to **Claim 51**, Tacklind teaches the system of claim 50, wherein the aspect of care is one or more of the group consisting of a compliance issue, a monitoring issue, a need for a checkup, and a need for further medical attention (Tacklind, For example see Fig. 4D-2).

22. As to **Claim 52**, Tacklind teaches the system of claim 50, wherein the image has a set of clickable regions that link to further information based on selecting the region with a pointing device (Tacklind, col. 8 lines 54-67).



23. As to **Claim 53**, claim 53 recite substantially similar limitations to claim 32 and is therefore rejected under the same reasoning and rationale.

***Response to Arguments***

24. Applicant's arguments with respect to claims 32-53 have been considered but are moot in view of the new ground(s) of rejection.

25. The 112 (2<sup>nd</sup>) rejection has been withdrawn given Applicant's corrections.

26. The objection to claim 41 has been withdrawn given Applicant's corrections.

***Conclusion***

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

28. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SIND PHONGSVIRAJATI whose telephone number is (571) 270-5398. The examiner can normally be reached on Monday - Thursday 8:00am-5:00pm (ET).

30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/S. P./  
Examiner, Art Unit 3686  
26 November 2008

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
Group Art Unit 3686